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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,623	09/25/2003	Gregory Kintzele	5044	6733

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EXAMINER

KING, ANITA M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/670,623

**Applicant(s)**

KINTZELE ET AL.

**Examiner**

Anita M. King

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/25/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

This is the first office action for application number 10/670,623, Elastic Article Suspension Device for an Infant, filed on September 25, 2003.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "37" on page 7, line 9 of the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the carabiner cited in claim 4, and the releasable handle cited in claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the terms the sleeve, cited in claim 12, and a sleeve member, cited in claim 18, are not cited in the specification.

### ***Claim Objections***

Claims 1, 7, 12, 18 and 19 are objected to because of the following informalities: in claims 1 and 12, line 2, a comma should be inserted after infants; in claim 7, line 6, "axes" should be --axis--; and claims 18 and 19 do not further limit the method of suspending a toy or other object for an infant, the claims are drawn to structural limitations not method steps. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 15, and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitations "said free end portion" in line 1 and "said base portion" bridging lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 15 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a clamping member," in line 3 of claim 14 is intended to refer to the original recitation of the term "a slidable clamping member" in line 7 of claim 12.

Claim 17 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited

terms. It is unclear if "said loop," in line 10 of the claim is intended to refer to the original recitations of the terms "an adjustable loop," in line 5 of the claim or "a continuous loop" in line 6 of the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,082,220 to Pollock et al., hereinafter, Pollock. Pollock discloses an article suspension device (20) for infants, comprising: encircling means (28) for surrounding an object; an elastic loop (32); a length of cord (24) having first end secured the elastic loop and a second end secured the encircling means; wherein the encircling means comprises a free end portion releasably secured to a base portion (29) of the encircling means; and wherein the cord includes elastic.

Pollock inherently teaches a method of suspending a toy other object for an infant, comprising the steps of: attaching first end of a length cord to an adjustable loop; forming a continuous loop at opposite end of the cord; positioning an object within the adjustable loop; encircling the loop around fixed or stationary object; adjusting said length of cord (Col. 3, line 25ff); suspending the object (22) from a highchair (10); and retrieving the object by pulling on the length of the cord.

Claims 1-3, 6-10, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,029,870 to Giacona, III, hereinafter, Giacona. Giacona discloses an article suspension device comprising: encircling means (11) for surrounding an object; an elastic loop (26); a length of cord (27) having first end secured the elastic loop and a second end secured the encircling means; wherein the encircling means comprises a free end portion (12) releasably secured to a base portion (13) of the encircling means; wherein the free end portion is secured to the base portion with a snap fastener (14); wherein the elastic loop includes means for adjusting a length of the loop and the cord; wherein the adjusting means defined by a body member (36) having first material-receiving slot (40) and second material-receiving slot (41), the first material-receiving slot extending along a parallel axes with the second material receiving slot; wherein the adjusting means further includes slidable gate (37) normally urged to closed position by a spring member (42); wherein a combination of the slidable gate in an open position and the spring form an unobstructed passage through which the length cord may pass; and wherein the cord includes elastic.

Giacona inherently teaches a method of suspending a toy other object for an infant, comprising the steps of: attaching first end of a length cord to an adjustable loop; forming a continuous loop at opposite end of the cord; positioning an object within the adjustable loop; encircling the loop around fixed or stationary object; adjusting said length of cord; capable of suspending the object from a highchair; retrieving the object by pulling on the length of the cord; and wherein the adjustable loop includes means for slidably engaging the cord whereby to adjustably encircle an object inserted in the loop.

Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,216,319 to Elkins. Elkins discloses an article suspension device comprising: encircling means (22) for surrounding an object; an elastic loop (14); a length of cord (12) having a first end secured to the elastic loop and a second end secured to the encircling means; and wherein the cord includes elastic.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,819,923 to Anderson. Anderson discloses an article suspension device (5) comprising: encircling means (9) for surrounding an object (7); a flexible loop (10); a length of cord (8) having a first end secured to the flexible loop and a second end secured to the encircling means; wherein the encircling means comprises a free end portion releasably secured (@ 11) to a base portion of the encircling means; wherein the encircling means is formed as a continuation of the cord; wherein the elastic loop include means for adjusting a length of the loop and the cord; and wherein the adjusting means (12) is defined by a body member having a first material-receiving slot (13) and a second material-receiving slot (14) extending along a parallel axis with second material-receiving slot. Anderson discloses the claimed invention except for the

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limitation of the cord being elastic. The cord in Anderson is constructed of a flexible material such as steel wire cable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the material of the cord in Anderson to have been constructed of an elastic material for the purpose of providing an alternative, flexible, mechanically equivalent material for the cord based on its suitability for the intended use and since such a modification would not have produced any unexpected results.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elkins in view of U.S. Patent 4,095,316 to Gabriel. Elkins further discloses a clasp (26) including a spring loaded pin (28) for encircling an object (32). Elkins discloses the claimed invention except for the limitation of the encircling means being a carabiner. Gabriel teaches that it is known to have a carabiner for securing an object therein. It would have been obvious to one having ordinary skill to have modified the encircling means in Elkins to have been a carabiner as taught by Gabriel for the purpose of providing an alternative mechanically equivalent means for encircling and securing an object.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pollock in view of U.S. Patent 5,600,873 to May. Pollock discloses the claimed invention except for the limitation of the cord having an outer fabric covering extending between the first end and the second end. May teaches that it is known to have a device for suspending an object, the device including an encircling means (16), a length of plastic coated string (41) having a first end secured to a key (22) and a second end secured to the encircling means, and wherein the cord includes an outer fabric covering (34) extending between



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the first end and a mid portion in outer surrounding relation to the cord. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the length of cord in Pollock to have included an outer fabric covering as taught by May for the purpose of providing a means for easily spotting the device against normal backgrounds and in dimly lighted rooms.

Claims 12-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giacona in view of May. Giacona discloses an article suspension device comprising: an adjustable elongated elastic cord (27) having means (11) at a first end for encircling a stationary object; an elastic loop (26) at a second end of the cord including a slidable clamping member (36) affixed to one end of the elastic loop and including means for releasably engaging the cord whereby to adjustably encircle an article inserted in the loop; wherein the encircling means includes a member (14) for detachably securing the cord to a stationary object; wherein the member includes a releasable handle (37); wherein the means for releasably engaging the cord includes a clamping member (39) for securely engaging a length of the cord; wherein the means for releasably engaging the cord includes a body member with dual material receiving openings (40, 41) and a slidable gate (37).

Giacona discloses the claimed invention except for the limitation of a sleeve extending between first and second ends in outer surrounding relation to the cord. May teaches that it is known to have a device for suspending an object, the device including an encircling means (16), a length of plastic coated string (41) having a first end secured to a key (22) and a second end secured to the encircling means, and wherein

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the cord includes an outer fabric covering (34) extending between the first end and a mid portion in outer surrounding relation to the cord. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the length of cord in Giacona to have included an outer fabric covering as taught by May for the purpose of providing a means for easily spotting the device against normal backgrounds and in dimly lighted rooms.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,815,909 to Paprocki et al.

U.S. Patent 2,994,300 to Grahling

U.S. Patent 3,392,729 to Lenoir

U.S. Patent 4,159,792 to Siegal

U.S. Patent 4,416,438 to King

U.S. Patent 4,745,883 to Baggetta

U.S. Patent 5,613,657 to Olaiz

U.S. Patent 5,699,555 to Schunter

U.S. Patent 6,363,244 to McGhee

U.S. Patent 6,606,768 to Henry et al.

Paprocki et al. disclose a nursing bottle holder. Grahling discloses a safety leader.

Lenoir discloses a fastener with a flexible cord for securing a pacifier to a garment.


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Siegal discloses a tether or leash for gloves. King discloses a bottle holder for holding a bottle, the holder including a flexible member having a loop. Baggetta discloses a safety tether device. Olaiz discloses a baby bottle keeper. Schunter discloses a child's waistbelt and leash for protection. McGhee discloses a carrying attachment for a mobile phone. Henry et al. disclose a versatile strap for retaining objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

April 27, 2004